

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

GLOBAL GAMING LEGENDS, LLC,
et al.

VERSUS

LEGENDS GAMING OF LOUISIANA-1,
LLC, *et al.*

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CIVIL ACTION NO. 5:13cv3123

JUDGE HICKS

MAGISTRATE JUDGE HORNSBY

PLAINTIFFS' MOTION PURSUANT TO RULE 56(d)

NOW INTO COURT, through undersigned counsel, comes Global Gaming Solutions, LLC, Global Gaming Legends, LLC, Global Gaming Vicksburg, LLC, Global Gaming Bossier City, LLC, and GGL Holdings, LLC (collectively "Global"), who files this motion pursuant to Rule 56(d) of the Federal Rules of Civil Procedure.

Legends¹ and the First Lien Parties², through their purported Reply Memorandum of Law in Further Support of Legends' and the First Lien Parties' Motion for Partial Summary Judgment of Global's Breach of Contract Claim and Motion in Limine Concerning Feasibility, [ECF Doc. 132] (the "Reply"), attempt to request a summary judgment ruling that Global repudiated the APA, which was not before the Court in Defendants' Motion for Partial Summary Judgment of Globals' Breach of Contract Claim and Motion in Limine Concerning Feasibility (the "Motion").

¹ Legends Gaming of Louisiana-1, LLC, Legends Gaming of Louisiana-2, LLC, Legends Gaming, LLC, Legends Gaming of Mississippi, LLC, Legends Gaming of Mississippi RV Park, LLC, and Louisiana Riverboat Gaming Partnership, are collectively referred to as "Legends".

² Intervenor Wilmington Trust Company, in its capacity as Administrative Agent under that certain Amended and Restated First Lien Credit Agreement with the Debtors, dated as of August 31, 2009, and the *ad hoc* group of lenders under the First Lien Credit Agreement, are collectively referred to as the "First Lien Parties".

[ECF Docs. 57, 58]. Contemporaneously with the filing of this Rule 56(d) motion, Global is filing a motion for leave to file sur-reply to address Legends' attempt to transform its feasibility arguments into a request for summary judgment on its anticipatory repudiation claim by means of a Reply. As detailed in the sur-reply, Legends' attempt to introduce a new a issue on Reply is improper and should not be permitted.

Out of an abundance of caution (and recognizing that the Reply cannot raise new summary judgment issues), Global files this motion under Rule 56(d), seeking an order from this Court declining to consider the request for summary judgment on repudiation until the completion of discovery. Because Legends and the First Lien Parties waited until their Reply to raise the issue of whether fact questions exist relating to the alleged repudiation, this Court should not entertain the issue now. While the issues raised by the Motion are ready for summary judgment review, the anticipatory repudiation claim is premature and must be left for later, once Legends completes discovery that to this point has been wholly deficient.

The Reply is an improper and unjustified attempt to deprive Defendant of an opportunity to develop its defense to Legends' anticipatory repudiation claim. Accordingly, the Motion should be denied, or in the alternative, Global should be granted additional time to conduct discovery.

The grounds for relief requested herein are set forth in the memorandum in support of this motion. Defendant also submits the Declaration of Gene R. Besen in support of the relief requested herein pursuant to Rule 56(d).

WHEREFORE, Global requests that Legends' and the First Lien Parties' Motion for Partial Summary Judgment, in so far as it seeks relief in connection with Legends' anticipatory

repudiation counterclaim, be denied pursuant to FED. R. CIV. P. 56(d) or that this Court grant such further and additional relief as the facts may warrant and justice so requires.

Respectfully submitted,

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Global Gaming Vicksburg, LLC, Global Gaming
Solutions, LLC and Global Gaming Bossier City,
LLC***

CERTIFICATE OF SERVICE

I certify that on October 13, 2014, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Louis M. Phillips
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